

STATEMENT OF REASONS FOR SECTION 100 CHANGES TO TITLE 18, SECTION 25128 OF THE CALIFORNIA CODE OF REGULATIONS

On June 27, 2025, Senate Bill 132 was signed into law, resulting in changes to how banks and other financial institutions apportion business income to California (effective for taxable years beginning on or after January 1, 2025).

California Corporation Tax Law requires all business income of an apportioning trade or business, other than an apportioning trade or business described in subdivision (b) of Revenue and Taxation Code section ("Section") 25128, to be apportioned to this state by multiplying the business income by the sales factor. Pursuant to subdivision (b) of Section 25128, an apportioning trade or business that derives more than 50 percent of its gross business receipts from conducting one or more qualified business activities must apportion its business income to this state by multiplying business income by the three-factor apportionment formula consisting of payroll, property, and sales.

Prior to Senate Bill 132, subdivision (c) of Section 25128 defined "qualified business activity" as (1) an agricultural business activity, (2) an extractive business activity, (3) a savings and loan activity, and/or (4) a banking or financial business activity.

Senate Bill 132 revised subdivision (c) of Section 25128 by removing "savings and loan activity" and "banking or financial business activity" from the definition of "qualified business activity" effective for taxable years beginning on or after January 1, 2025. As a result, banks and other financial institutions are required to utilize a single sales factor apportionment formula instead of an equally weighted three-factor apportionment formula.

Effectively, therefore, for taxable years beginning on or after January 1, 2025, only businesses engaged in a qualifying business activity pursuant to subdivision (c) of Section 25128, Revenue and Taxation Code, apportion their business income to this state pursuant to a three-factor formula consisting of property, payroll, sales factors, while all other apportioning business must apportion their business income pursuant to the single sales factor apportionment formula.

Because California Code of Regulations, title 18, section 25128 subsection ("Subsection") (b)(1) contains reference to "savings and loan activity" and "banking or financial business activity," it must be updated to reflect the above changes in the law mandated by Senate Bill 132. The proposed change, which is identified below, and which the Franchise Tax Board has no discretion to adopt differently, is a "change without regulatory effect" that may properly be adopted under Section 100 of Title 1 of the California Code of Regulations.

Subsection (b)(1) has been revised to denote the change in the statute for the definition of "qualified business activity" for taxable years beginning on or after January 1, 2025. The proposed regulatory language keeps the current definition of "qualified business activity" for taxable years beginning before January 1, 2025, but adds new language denoting that for taxable years after January 1, 2025 the definition for "qualified business activity" no longer

includes "savings and loan activity" or "banking or financial business activity." These proposed revisions make the regulation consistent with the current statutory language and do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.